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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,901	01/11/2008	Thomas Scherer	WUE-57	5039
26875 7590 07/14/2009 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202				
EXAMINER TAPOCAL, WILLIAM E				
ART UNIT		PAPER NUMBER		
3744				
MAIL DATE		DELIVERY MODE		
07/14/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/584,901

**Applicant(s)**

SCHERER ET AL.

**Examiner**

William E. Tapolcai

**Art Unit**

3744

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-24-29, 31, 32 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-24-29, 31, 32 and 34-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Applicant's arguments, see pages 8-10 of the response, filed July 7, 2009, with respect to the rejection(s) of claim(s) 22 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly discovered art.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22, 24-27, 29, 31, 32, 34-40, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,513,500 to Fischer et al in view of U.S. Patent No. 4,487,028 to Foye, newly cited. Fischer et al discloses the claimed invention of a cooling system for an aircraft including a refrigeration installation 4, a refrigeration consumer 8A and 8B, and a refrigeration transport system 5-7 and 10-12 connecting the refrigeration installation and the refrigeration consumer. However, Fischer et al does not disclose the refrigeration installation as comprising two refrigeration machines operating independently of each other and in parallel. Foye teaches an air conditioning system which includes two refrigeration machines 11 and 12 which cool a secondary fluid. Column 3, lines 45-48 teach that the refrigeration machines 11 and 12 are operating independently of each other and in parallel. Thus, it would be obvious to provide Fischer et al with two refrigeration machines that are operated independently of each other and in parallel, in view of Foye, to yield the predictable result of providing redundant systems

in case one of the systems fails. The recitation in claim 22 of the control unit operating the refrigeration machines so that each machine operates for the same amount of time is considered to be a mere statement of intended use and not a positive structural limitation. Moreover, one of ordinary skill in the art would be able to operate the refrigeration machines 11 and 12 of Foye for the same amount of time, without undue experimentation.

4. Claims 28 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al in view of Foye as applied to claim 22 above, and further in view of U.S. Patent No. 3,216,215 to Schuett. Fischer et al as modified above by Foye discloses the claimed invention except for the refrigerant store and the amount of refrigerant being altered. Schuett teaches a refrigeration system comprising a store 12a for the secondary refrigerant. Schuett further a valve for varying the amount of refrigerant flowing through the spaces being cooled. Thus, it would be obvious to modify Fischer et al so that the refrigeration system comprises a store for the secondary coolant, and also alters the amount of coolant flowing through the spaces to be cooled, in view of Schuett, to yield the predictable result of providing the necessary amount of coolant needed to perform the cooling functions required.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (571) 272-4814. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William E. Tapolcai/  
Primary Examiner, Art Unit 3744

wet  
July 13, 2009